

**REMARKS**

Claims 1-26 have been rejected. Claims 1, 8, 15, and 22 have been amended. Claims 27-36 have been added. Support for these amendments is found throughout the specification and as recited below. New Claims 27-36 have been added to further exemplify the invention, as supported by the Figures, in particular 18-20, and the Specification, particularly at page 11 lines 25-32, and page 12. No new matter has been added.

**I. Rejection under 35 U.S.C. §102(b) as being anticipated by US Patent No. 5,522,155**

Claims 1-26 have been rejected under 35 U.S.C. §102(b) as being anticipated by Jones (US Patent No. 5,522,155). It is suggested that Jones shows a cap 10,90 with a recess 18,94 and a vapor path to seal a container. A stopper 92 seated in a first position within the cap 90, adjacent to the recess 94. The stopper is suggested to be movable between open and shut positions for allowing passage of vapor. Applicants respectfully disagree with this rejection.

Under 35 U.S.C. §102(b), a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Jones does not teach every element or limitation of the present invention.

It is respectfully pointed out that claims 1, 8, 15, and 22 have been amended herewith to further clarify the invention and more easily distinguish it from the recited art. Namely, that the stopper is seated in a first position between the container opening and the venting media of the cap to allow passage of vapor between the container and the external atmosphere. It is further clarified that the cap assembly of the present invention is removable. Thus, leaving only the stopper in place to seal the container. Support for these amendments is found particularly at page 7, lines 16-30 and lines 30-31; page 9, lines 8-13; Figures 1-8, and throughout the specification. By contrast, Jones teaches a cap which remains in the container for sealing, see column 2, lines 30-35; column 3, lines 12-25, Figures 1-13. Further, Jones teaches that the venting media is located within the container situated between the container and the stopper, as depicted in the Figures and specification. Thus, Jones clearly can

not be held to anticipate the present invention, as all of the limitations of the present invention are not taught.

Applicants respectfully request reconsideration and withdrawal of this rejection.

**II. Rejection under 35 U.S.C. §102(b) as being anticipated by US Patent No. 3,474,543**

Claims 1-5, 8-12, 15-19 and 22-26 have been rejected under 35 U.S.C. §102(b) as being anticipated by Bender et al. (US Patent No. 3,474,543). It is suggested that Bender et al. show a cap 42 with a recess 63,64 and a vapor path to seal a container. It is further suggested that stopper 28,29 seats in a first position within the cap 42 adjacent to the recess 63,64. The stopper is movable between open and shut positions for allowing passage of vapor. Applicants respectfully disagree with this rejection.

As discussed in full detail above, claims 1, 8, 15 and 22 have been amended herewith to further clarify the invention and distinguish it from the recited art. Namely, that the cap assembly comprises a removable processing cap useful with stoppered containers. The cap has a housing bonded to a conformable section with a recess adapted for sealing to a container, and further has a venting media attached to the housing of the cap. The processing cap is able to be removed from a closed container.

Additionally, Bender et al. disclose at column 1, lines 40-47, an apparatus for simultaneously freeze drying a plurality of bacterial cultures without substantial risk of cross contamination between the cultures or contamination of the freeze-drying system. The apparatus consists of a container having a gas permeable but bacterially impermeable plug (venting media) located in the mouth of the container by means of a separate closure cap having a central opening therein, column 2, lines 9-14, and see Figure 7. A plurality of containers of this type are located in a freeze drying receptacle which is subsequently closed off with a sealed cap having an adapter for connection to a source of vacuum and refrigeration, see column 2, lines 14 through 16. Bender et al. do not teach or suggest any two part cap with a housing bonded to a conformable section having a recess adapted for sealing to a container. Further, Bender et al. do not teach or suggest a venting media attached to the housing of the aforementioned cap.

Thus, Bender et al. do not teach all of the limitations of the present invention claims. Thus, Bender et al. cannot be held to anticipate the present invention.

Applicants respectfully request reconsideration and withdrawal of this rejection.

**Conclusion**

Applicants believe that the foregoing amendment to claims 1, 8, 15, and 22 overcome the Examiner's objections to the claims. It is believed that the depending claims are also free of prior art. Applicants further believe that the foregoing remarks overcome the Examiner's rejections and place the present application in condition for allowance. Applicants respectfully request reconsideration and allowance of the present application. If further questions remain, Applicants request that the Examiner telephone Applicants' undersigned representative before issuing a further Office Action.

Respectfully submitted,



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